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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,719	02/28/2002	Jonathan L. Bosloy	2545-000021	7485

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EXAMINER	
SEDIGHIAN, REZA	

ART UNIT	PAPER NUMBER
2633	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/087,719	BOSLOY ET AL.	
	Examiner	Art Unit	
	M. R. Sedighian	2633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 May 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-19 and 21-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *14,15,29 and 35* is/are allowed.

6)☒ Claim(s) *1,3-11,17-19,21-26,30-34,36 and 37* is/are rejected.

7)☒ Claim(s) *12,13,16,27 and 28* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *2/28/2002* is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2/28/02*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. This communication is responsive to applicant's 5/17/05 amendments. The amendments have been entered. Claims 1, 3-19, and 21-37 are now pending.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-11, 17-19, 21-26, 30-31, 33-34, and 36-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Beine et al. (US Patent No: 6,701,087).

Regarding claims 1, 19, and 36-37, Beine teaches a request method for performing optical power management to accomplish planned addition and removal of wavelengths in an optical communication system (col. 2, lines 43-67, col. 3, lines 1-15), each wavelength having a path of transmission through the system (col. 6, lines 35-65), comprising: communicating a request for a power ramp to at least one path network component in the path (a request is made by a downstream element to decrease power level, shown by step 942 in fig. 9B); determining that the path network component has made preparations to successfully accommodate the power ramp as requested (an upstream element decreases power and output new parameters, shown by step 952 in fig. 9B) based on an acknowledgment from the path network component that is received from downstream (an upstream element outputs new parameters, and if is not inherent, it is obvious that when network elements exchange power parameter, or when an upstream element output new parameters, as shown by steps 940 and 952, an acknowledgment between network elements can be exchanged); and performing a power ramp in response to the

determining (a power ramp, or a decrease in power level occurs in upstream element, as shown in step 952 of fig. 9B). As to claims 36-37, it requires similar limitations as discussed above for claim 1.

Regarding claims 3 and 24, Beine teaches waiting a predetermined amount of time to allow the path network component to make preparation for the power ramp (col. 19, lines 42-48, col. 20, lines 64-67, col. 21, lines 1-3), and determining that the path network component has made preparation for the power ramp based on the elapsed wait time (note that preparation for a power ramp based on an elapsed wait time is a requirement of such system to provide the proper signal power level).

Regarding claims 4 and 21, Beine teaches the path network component is adapted to send the acknowledgment subsequent to the preparation (col. 18, lines 64-67 and step 950 in fig. 9B).

Regarding claims 5 and 22, Beine teaches the path network component is adapted to make the preparations in response to receiving a request for a power ramp (col. 18, lines 49-54).

Regarding claims 6 and 23, Beine teaches notifying the path network component of completion of the power ramp (col. 5, lines 47-51).

Regarding claim 7, Beine teaches resuming normal operating condition at the path network component in response to the notifying (col. 5, lines 40-50).

Regarding claim 8, Beine teaches performing the power ramp further comprises ramping up power input to the optical communication system (col. 1, lines 32-35, col. 3, lines 10-15).

Regarding claim 9, Beine teaches performing the power ramp comprises ramping down power input to the optical communication system (step 952, fig. 9B).

Regarding claims 10 and 25, Beine teaches the step of communicating a request further comprises using data communication network to connect at least two network components in the system (col. 4, lines 56-60, col. 15, lines 51-52 and fig. 3).

Regarding claims 11 and 26, Beine teaches the step of communicating a request further comprises using an optical supervisory channel to communicate the request (col. 4, lines 57-67).

Regarding claims 17-18 and 33-34, Beine teaches the network component adapted to accomplish planned addition and removal of wavelengths (ADD, DROP, fig. 3).

Regarding claim 30, Beine teaches receiving at east one downstream acknowledgment from an adjacent, downstream network component (950, fig. 9B), indicating that the downstream network component has made preparation for the power ramp (col. 18, lines 55-63), wherein sending occurs subsequent to the receiving the downstream acknowledgment (col. 18, lines 49-54).

Regarding claim 31, Beine teaches sending the acknowledgment to an adjacent, upstream network component (col. 18, lines 64-67 and 940, 942, 952, 960, fig. 9B).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beine et al. (US Patent No: 6,701,087).

Regarding claim 32, Beine differs from the claimed invention in that Beine does not specifically disclose receiving at least one downstream acknowledgment correspond to receiving downstream acknowledgements at different levels according to transmission hierarchy of the system. Beine teaches a system with a plurality of nodes being able to exchange the power parameter info between the nodes, and some of nodes are re-configured based on power parameters info, and steps of exchanging power parameters info and re-configuring are repeated until the network is fully configured so that desired signal power levels are selected, therefore, it is obvious that the step of receiving downstream acknowledgments must be performed at different levels according to transmission hierarchy layers of the system in order to provide consistent response of all the nodes to any change in the spectrum of the WDM signal traveling along the transmission path).

6. Claims 12-13, 16, and 27-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 14-15, 29, and 35 are allowed over prior art of record.

8. Applicant's arguments filed 5/17/05 have been fully considered but they are not persuasive.

Remark States Beine does not disclose sending an acknowledgment upstream to a network component requesting a power ramp. Beine teaches power parameter information is exchanged between nodes and some of the nodes are re-configured based on the power

parameter information and such operation repeated until the optical network fully configured and optical signal have selected signal power levels (see abstract). Beine further teaches network element propagate power parameters (steps 940, 942, 952 in fig. 9B) and notification can be send to upstream node to change power level (col. 18, lines 64-67). Accordingly, if is not inherent, it would have been obvious that power management system of Beine exchange acknowledgment signals between network elements to re-configure, manage, and select proper signal power levels. Remark further states Beine does not teach determining that a path network component has made preparations to successfully accommodate a power ramp based on an acknowledgment that is received from downstream. However, Beine teaches an upstream network element decreases power level (step 952 in fig. 9B) based on received request from a downstream element (step 942 in fig. 9B). Accordingly, an upstream network element by receiving a request, or a notification, prepares and decrease power level (as it is shown in different steps of fig. 9B). Exchange of acknowledgment signals between upstream and downstream elements, and preparation for power ramp, are requirements of a signal power level management system such as the one of Beine to provide proper and accurate signal power levels.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. R. Sedighian whose telephone number is (571) 272-3034. The examiner can normally be reached on M-F (from 9 AM to 5 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. R. Sedighian

M. R. SEDIGHIAN
PRIMARY EXAMINER